914

C.F. 71.

19 40.

Department of Revenue

OFFICE Board of Revenue

STATION, Madras.

Mis. No. 430

Dated 12-2-40

Pages in the file 5 to 7
C. F. 16

(SUBJECT.)

To

CFL Rs5/-
R.P 76
B4128

The Honourable the Board of Revenue,
Chepauk, M A D R A S.

Humble revision petition of Khairun Bibi, widow of Sheikh Rahiman Saheb, residing at Bailadka, Karkala Village, Karkala Taluk, South Kanara District, on behalf of her son Sheikh Hammed Saheb.

Dated. 17th July 1939.

Respectfully sheweth:-

That the Petitioner being highly aggrieved by the order of the Collector of South Kanara passed in his Proceedings D. Dis. No. 2868/1939 dated the 16th June 1939 (copy enclosed) begs leave to appeal against the said order on the following grounds:-

2. That the Collector in passing the said order was not pleased to take into consideration and weigh the facts and circumstances urged by her in her appeal petition dated 12-5-1939.

3. That the Petitioner by means of a registered sale-deed dated 1-5-1923 purchased the plot S. No. 277/3 of Karkala Village with all its appurtenances and that the said plot was purchased in the condition in which it had been enclosed and enjoyed by the vendor prior to sale and further that she was unaware of the fact that a portion of road poramboke S. No. 277/4 had been encroached upon by her predecessor-in-title by enclosing it with a fence.

4. That the Petitioner after purchase made improve-

-ments on the plot and planted cocoanut and jack trees on the enclosed portion of S. No. 277/4 as well. That she subsequently sold the plot to her son Sheikh Hammad Saheb by means of a registered sale-deed dated 15-1-1931 as she found it difficult to complete the work of improvements for want of funds.

5. That her son the said Hammad Saheb has made - further substantial improvements by erecting a building and putting up a mud wall in the place of the old fence and that he too, while replacing the old fence with a mud wall, was not aware that a portion of S. No. 277/4 had - been included within the old fencing by the Petitioner's predecessor-in-title.

6. That the Petitioner became aware of the encroach-ment for the first time when notice dated 3-1-1938 in E.C. No. 14/1346 was served on her as representing her son and that she immediately thereafter submitted a petition dated 12-3-1938 to the authorities concerned, setting out the - facts and praying that the enclosed portion of S. No. 277/4 measuring 8 cents in extent might be assigned to her son on collection of all back assessment and penalty. That as a matter of fact all the back assessment and penalty amounting in total to Rs ~~3-1-0~~ 3-12-1 in respect of the said portion was collected and that the Petitioner believed that her son would be given the said plot on darkhast. But the Petitioner and her son were sorely disappointed in their fond expectation by the orders for eviction issued subsequently by the - - authorities concerned.

7. That the Petitioner is a helpless and poor -- "gosha" woman about 80 years old and that her son is away at Bombay serving in a hotel for the livelihood of the family.

That the Petitioner and her son have no other means of - - livelihood and that therefore the order of eviction will work great hardship and bring misery to the Petitioner and her son who have spent all their poor savings on improvements in the said plot in the fond hope and expectation of living peacefully on their only plot of land.

8. That the said encroachment being only a narrow strip of 8 cents does not in any way interfere with or cause inconvenience to the traffic on the road and that it is at a sufficient distance from the main road. That moreover, the road being of minor importance, there is not much traffic on it.

9. That on a favourable consideration of all the facts and circumstances submitted above the Honourable the Board of Revenue may be graciously pleased to order the - - dropping of the encroachment proceedings and further to order the grant on darkhast to the Petitioner's son the said small strip of 8 cents in S. No. 277/4 of Karkala Village and - - that pending disposal of this revision petition, to order - stay of encroachment proceedings in E.C. No. 14/1346.

For which act of justice, equity and charity, - the Petitioner and her son will, as in duty bound, ever - - remain grateful.

Thumb only.

Left hand thumb impression is of Ishairun Bibi

H.S. Hussain
Vakil,
17.7.39

D.Dis.No.2868/39.

Proceedings of the Collector of South Kanara, dated the 16th June 1939.

Sri Diwan Bahadur M. V. Vellodi, B.A.

Encroachment - Land - Karkal Taluk - Karkal village - S.Nos.277/4B & 4C - eviction - appeals - Dismissed.

---

(1) Appeal petition, dated 23.4.1939 of K.P.Seshagiri Prabhu, Landlord residing in Karkal town, Karkal Taluk.

Karkal Tahsildar's remarks, L.Dis.2368/39, dated 29.4.39 and R.Dis.3207/39, dated 1.6.1939 received with Coondapoor Revenue Divisional officer's L.Dis.2777/39, dated 9.6.1939.

(2) Appeal petition, dated 12.5.1939 of Khairun Bibi widow of Sheik Rahim Sahib residing in Bailadka, Karkal village on behalf of her son Sheik Hammad Saheb.

Karkal Tahsildar's remarks, L.Dis.3036/39, dated 1.6.39 received with Coondapoor Revenue Divisional officer's L.Dis. 3046/39, dated 9.6.1939 and the connected records.

This office D.Dis.6766/37, dated 14.12.1937.

The Collector already passed orders that the encroachments should be got removed. There are no grounds to reconsider that order now. The appeals are dismissed.

/By Order/

Huzur Sheristedar.

To the appellant, K.P. Sheshagiri Prabhu, Landlord, Karkal.

To the appellant, Khairun Bibi, widow of Sheik Rahim Sahib of Karkal.

To the Tahsildar of Karkal through Revenue Divisional officer with records of (1) E.C.45/48, (2) E.C.14/46 and (3) D.R.33/1322 returned.

J.D'S.19/6.

ಅಧಿಕಾರಕ್ಕೆ ಕಡೆ ವಕಾಲತ್ ನಾಮೆ.

(1908 ನೇ ಇಸವಿ V ನೇ ಆಕ್ಟಿನ 3 ನೇ ಆರ್ಡರ್ 4 ನೇ ರೂಲ್ ವ ಸಿವಿಲ್ ರೂಲ್ಸ್ ಆಫ್ ಪ್ರೆಕ್ಟೀಸಿನ 276 A ರೂಲ್ ಪ್ರಕಾರ.)

ದಕ್ಷಿಣ ಕನ್ನಡ ~~ಡಿಸ್ಟ್ರಿಕ್ಟ್ ಮುನ್ಸಿಫ್ ಕೋರ್ಟಿನಲ್ಲಿ~~ ಅಧಿಕಾರದಲ್ಲಿ

ನಂಬ್ರ
19

ಹೈರುನ್ನಿಬೀಬಿ ಅಧಿಕಾರಿಯು.

ಮತ್ತು

ಇವರೊಳಗೆ

ದಕ್ಷಿಣಕನ್ನಡಾಜಿಲ್ಲಾ-ಕಾರ್ಕಳತಾಲ್ಲೂಕು-ಕಾರ್ಕಳಗ್ರಾಮದ ದಫ್ತೇಲಿಡಕೆಲಸಂಬಂಧಿಸಿರುವ-ಹೇಳಕರಣಿಕನನ್ನಿಸ್ಕೊಂಡಿರುವವನೂ ಹೈರುನ್ನಿಬೀಬಿ ಅದಸಾ

R.P 40
CFL Rs 1-12
B 3577

OFFICE OF THE BOARD OF REVENUE
21 JUL 1939
MADRAS

ದಕ್ಷಿಣ ಕನ್ನಡಾ ಡಿಸ್ಟ್ರಿಕ್ಟ್ 1 ಗ್ರೇಡ್ ಪ್ಲೀಡರ್ ಮ. ರಾ. ಎಚ್ ಎಸ್ ಹುಸೇನ್ ಬಿ.ಎ.ಬಿ.ಎಲ್ ಅವರೆ.

ಮೇಲ್ಕಂಡ ವ್ಯವಹರಣೆಯಲ್ಲಿ ನ-ನ್ನೆ ಕಡೆಯಿಂದ ವಕೀಲರಾಗಿ ನೇಮಿಸಿ, ನ-ನ್ನ ಕಡೆಯಿಂದ ಸಮಸ್ತ ವ್ಯವಹರಣೆ ನಡಿಸಲಿಕ್ಕೂ, ಅದರಲ್ಲಿ ಉಂಟಾಗುವ ಯಾವದೊಂದು ಹುಕುಮಿನ ವ ಡಿಕ್ರಿಯ ಅಮೆಲ್‌ಜ್ಯಾರಿ ನಡಿಸಲಿಕ್ಕೂ, ಅಂಥಾ ಹುಕುಮುಗಳು ವ ಡಿಕ್ರಿಗಳು ಪೂರ್ಣ ಸಮಾಧಾನವಾಗುವ ವರೇಗೆ ಎಲ್ಲಾ ವಿಧದ ವ್ಯವಹರಣೆಗಳನ್ನು ನ-ನ್ನ ಕಡೆಯಿಂದ ಹಾಜರಾಗಿ ವ್ಯವಹರಿಸಲಿಕ್ಕೂ ನ-ನ್ನ ಕಡೆಯಿಂದ ದಸ್ತಾವೇಜುಗಳನ್ನು ವ ನ-ನ್ನ-ಗೆ ಬರತಕ್ಕ ಹಣಗಳನ್ನು ಪಡಕೊಳ್ಳುವರೆಯೂ ಈ ಮೂಲಕ ಪೂರ್ಣ ಅಧಿಕಾರ ಕೊಟ್ಟಿರುತ್ತೇನೆ.

Accepted
H. Hussain
Vakil
17.7.'39

ತಾ. 17 ನೇ ಜುಲೈ 1939 ನೇ ಇಸವಿ.

ಈ ಅಧಿಕಾರಕ್ಕೆ ಹೈರುನ್ನಿಬೀಬಿ ಅದಸಾ

H. V. Hussain
B.A.B.L.M.L.A.
Vakil KARKALA
S. Kanara.

ಈ ವಕಾಲತು ಬರಕೊಂಡ ಮೇಲೆ ಹೆಸರು ಕಾಣಿಸಿದವ-ನ್ನ-ಗೆ ಇದನ್ನು ಅವ-ನ್ನ-ಗೆ ತಿಳಿಯುವ ಭಾಷೆಯಲ್ಲಿ ಓದಿಹೇಳಿದ್ದಲ್ಲಿ ಸರಿವುಂಟೆಂದು ಇದನ್ನು ದಸ್ಕತುಮಾಡಿ ನನ್ನ ಮುಂದೆ ಒಪ್ಪಿರುತ್ತಾ-ನೆ.

ತಾ. 17-7-1939.

Member District Board
S. K.

Board of Revenue
Madras.

N. Dis. B. 3579/39 — 7.8.39

Returned.

2. The petition should bear court-fee to the value of Rs. 2/- (Rupees Two only). The Vakalat filed with the petition should bear court fee stamps to the value of Rs 3/- (Rupees three only). As the petition ~~is~~ ~~has a defect~~ does not bear them it is rejected.

3. The petition will be readmitted and considered if it is re-presented within a month from the date of this order after affixing the deficit court fee stamps to the value of Rs. 3. 4. 0 (Rupees three and annas four only) and if it is not time barred.

7/8/39
Assistant Secretary
Board of Revenue.
7/8

To The Petitioner
Khairun Bibi
C/o
Janab H. S. Hussain
B.A.B.L.,
& M.L.A.
Vakil,
Karkala
S. Kanara.

Resubmitted after affixing the deficit court fee stamps to the value of Rs3-4-0 (Rupees three and annas four only).

Karkala, dated 18th August 1939.

H. S. Hussain
Vakil for Petitioner.

Asstt

Cy
1
3.30pm
9/9

Encl:- Land- S. Kanara
Karkal tk. Karkal Vge
S. Nos. 272/4 B + C - Eviction
Khairun Bibi Petn

B 4128/39 Petn. from
Khairun Bibi thro her
Vakil Janab H. S. Hussain
dy 17.7.39.

Refce. B. 4128/39. 1. dy 9-9-39.

Forwarded to the
Coll. of S. Kanara for
submission of the connected
records with any remarks
which he considers necessary
regarding the allegations
in the petn. which are
not clearly dealt with
in the records

2/ The Coll. is
requested to stay the
eviction proceedings under
the petn. cited above
as finally disposed of by
the Board of Revenue.

the record

9

To The Coll. of S. Kanara Mlgs
with a petn. & encls. 8/9
(to be returned). 9/9

To The Petr [Para 2 only]
Khairun Bibi
C/o Janab H. S. Hussain
Vakil Karkala
S. Kanara

Ur 9/9/39

13 Records as per list

C.F. 32.

Revenue DEPARTMENT. (W.2) B 5270

In reply, please quote number, date and short title.*

Received ____ *Registered* ____

From (Name) Sri Rao Bahadur C. K. Karunakara Menon,

(Designation) Collector of South Kanara.

Post Box ____, (STATION) Mangalore.

Telegraphic Address ____

To

The Secretary to the Board of Revenue (Land and Settlement) Madras.

D.Dis. No. 6301-39, dated 20th October 1939.

Sir,

Encroachment - Land - (South Kanara) - Karkal Taluk - Karkal village - S.Nos. 277/4B & 4C - Eviction - Khairun Bibi - Petition - Reported.

ENCLOSURES ____

p11 of ____

SHARE COPIES ____

Board's Reference No. B-4128/39-1, dated 5-9-1939.

******

I resubmit the petition of Khairun Bibi with its enclosures received with the Board's Reference quoted above.

2. The petition is against the Collector's order in D. Dis.No. 2868-39, dated 16-8-1939 dismissing the appeal against the order of eviction passed by the Revenue Divisional Officer, Coondapoor under section 6 of the Act in respect of the encroachment S.No. 277/4B, measuring 8 cents of Karkal village, Karkal Taluk.

p21-28 of (S)

3. S.No. 277/4 stands registered in the cart-track poramboke. The petitioner encroached upon a portion of it denoted as S.No. 277/4B by enclosing it along with her adjoining land S.No. 277/3 with a mud wall and planting coconut, jack, mango and plantain plants. There was another encroachment, denoted as S.No. 277/4C, measuring 21 cents made by one Seshagiri Prabhu adjoining his land S.No. 277/3 by putting up a mud wall and raising chillie cultivation. The petitioner's encroachment is found to be about 10 years old and its cost was estimated by the Tahsildar at Rs. 20/- to 30/-. The other encroachment was found to be about 4 years old and its cost was estimated at Rs. 10/-. As both the

Vide rotn. at p5 of (X)

p69 of (A)

14 12

encroachments were outside the town limits and beyond 50 links from the centre of the poramboke road S.No. 183, the Tahsildar had recommended the transfer of the encroachments from poramboke road to ayan in view to assign them to the encroachers at the dry rate of Re.0-12-0 per acre levying site value at Rs. 50/- per acre. But my predecessor negatived the Tahdildar's ------ proposal and directed the removal of the encroachments in his -- Proceedings D.Dis. 6766-37, dated 14-12-1937. The Tahsildar - thus took steps under the L. E. Act and the Revenue Divisional - Officer finally passed the order of eviction. The appeals ---- filed by the encroachers against the eviction order were dismissed in this office Proceedings D.Dis 2868-39, dated ------ 16-6-1939.

4. In connection with the present petition, I have inspected the land. I find the encroachment of the petitioner and --- also of K. P. Seshagiri Prabhu to be not objectionable. The -- land is not part of the District Board road poramboke and is --- not required for purposes of that road. It forms part of a --- cart-track poramboke but is not required even for purposes of -- that cart-track. Not only the encroachment portions but even the remaining portions up to the District Board road in S.No. -- 183 on either side of the cart-track may be assigned to the ---- encroachers. I recommend that the Board may be pleased to ---- cancel the eviction order so that steps may be taken to assign the land to the two persons.

5. The connected records as noted in the margin are enclosed.

1. Taluk E.C. 43/48.
2. " E.C. 14/46.
3. Huzur D.Dis.2868/39.
4. " D.Dis.6766/37.

For Collector.

23.x.39

[S.V.R]

Encl- Land - (S. Kanara) =
Kankal th- Khankal vge=
S. No. 277/4B & 4C - Eviction
- Khairun Bibi - petn -
orders passed -

B 4128. From the petn
dy 17. 7. 39 &
From the Coll
of S. Kanara
D.Dis. 6301. 39 & 20.10.
to Govt only
Nis. 430 dy 12. 2. 40

The Board
the Coll's recom-
mendation in paragraph
4 of his letter cited above.
It accordingly cancels the
orders of eviction & issue
the Board called in his D.Dis 6766/3
dy 14-12-37. The Coll. is
2. The petn. i
referred to the Coll. for
orders on his petn.

No. 010

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters not exceeding 2½ tolas or one ounce in weight or, on which no acknowledgment is due.

Rs. As. .70

Date-stamp.

Received a registered * ——
addressed to ——

* Write here "letter," "postcard," "packet" or "parcel"

Initials of Receiving Officer with the word "Insured" before it when necessary.

If insured.

Insured for Rs. (in figures) ——— (in words) ———

Weight Tolas

Insurance fee Rs. ——— As. ——— (in words) ———

Name and address of sender.

to assign to the
and K.P. Sethagiri Prabhu
land encroached upon
them

To The petr. (para 2 only)
Vice Adsn at p 9 of
To The Coll. of S. Kanara
with records retd.
as per list
✓ p 14 of

20,002—10-10-38.

PETITION NOTE FILE. B41 28/39

SUBJECT.— Encroachment - Land. (S. Kanara) - Karkal Tk - Karkal Vge. (Ryotwari) S. Nos. 277/4 B & 4 C - Eviction - Khairun Bibi. Petn.

DATE OF RECEIPT.— 22. P. 39

NOTE.—If the answer to any of the questions noted below admits of a simple and direct answer, this answer should be noted against the question. Where the answer is in doubt and requires discussion and orders, the words "see below" should be entered instead and the question dealt with in the body of the Office note, under the numbered heading which will be repeated for the purpose.

1. Nature of Petition? (Original, appeal, or revision.) Revn. petn.

2. Under what statute, law or other provision, is it preferred? See 10 (1) g the L.E. Act
P636 g the Madras Code Vol II Bk. 24

3. In cases of appeal or revision—Authority on which original (and lower appellate) orders were passed. do

4. Under what authority does the Board entertain this petition? do

5. *Stamps* (Quote authority in every case).

(*a*) Is the petition with enclosures properly stamped ?

The petn. and. bear C.F. labels to the value of Rs 2/-3
Ps B.S.O 172-6. Note (1).
& bears them.

(*b*) If exempt from stamp duty, state authority.

Appx XIV. Rule XI. The Vakalat and. bear C.F. labels to the value of Rs. 3/- & bears them.

6. *Limitation*—

(*a*) Is, the petition in time—State time allowed—With authority ?

No time limit is fixed in the Case of Revn. petns under the L.E. Act. The Board's practice however is to allow 60 days time as in the Case of Appeals.

(*b*) If the petition is time-barred—
I. Is there authority to condone delay ?

P 5 of date of Govt's order. 16.6.39
Date of receipt with report received 22.8.39

II. If so, state here any grounds adduced for condonation.

Miscellaneous.—Are there any other technical points for consideration ? If so, state them briefly.

To A.S.

The petn at pp 1-3 cf is against the COR's order at p 5 cf.

Records as per his at p4 cf

2. The main allegations in the petn are :

(i) That the petr & her son

8 cents

were unaware of the fact that the encroached plot was road poramboke

(ii) That substantial improvements were made for the land by erecting a building & by putting up a mudwall enclosure & by plantation of jack & cocoanut trees

paras 4 + 5 - pp 1 - cf

(iii) That the evct is not objectionable

para 8 - p 3 cf

The petr requests that the plot in question may be assigned to her. The COR's order at p 5 cf does not contain any reasons for rejecting the allegations of the petr Records may be called for & examined.

para 9 - p 3 cf

The petr also prays for interim Stay of eviction Stay may be granted in view of the fact that the petr has constructed a building on the plot and has also planted trees

6/9/39 6/9/39

To A.S.

Drafts Subd

3/9 9/39

B. dupe

Delay from 20.10.35 read explained. (18.24.)

B 5270 From the Coll. of S. Kanagaratnam Dr. imb 30.1.39 p 13 C/F

d. 20.10.39

To A.S. M2

Sketch at p 5 of (X) A82

2 S. No. 277/4 of Karkal vge Karkal tk stands registered as Govt track poramboke. The petr. encroached upon a portion of it denoted as 277/4 B (8 cents) in the sketch. The encr. is by enclosing the land in question with her adjoining land S. No. 277/3 with a mud wall & planting Cocoanut, jack, mango & plantain trees plants. As the encr. was outside the town limits & beyond 50 links from the centre of the road poramboke in S. No. 183 the Taluk Subd. proposals for the transfer of the land in question with a view to assign it to the encroacher. But the Coll. refused to sanction the

para 3- p 13 C/F

transfer proposed & directed The removal of the encr. Agreeably to the orders of the Coll. eviction was ordered by the RDO The encroacher's appeal against the eviction was dismissed. Hence the present petn to the Board.

p 89 of (A)

pp 27-28 C.F (S)

3. The petn alleges that she was unaware of the fact that a portion of the road passing in S.No. 277/4 was encroached upon by her predecessor in title, that herself & her Son have made substantial improvements for the land & that the encr is unobjectionable as it does not interfere with or cause inconvenience to the traffic on the road & that it is at a sufficient distance from the main road.

para 3 - p 1 C.F

paras 4 & 5 - pp 1-2 C.F

para 8 - p 3 C.F

4. The plot concerned, S. No. 277/4B measuring 8 cents is reported to lie outside the Kankal town limits. Two of the Jatas have personally inspected the site. Both of them were of opinion that the encr is unobjectionable. The encr is

p 4 of (A)

p 19 of (A)

reported to be about 10 years old. p.6 9 (A)

In connection with the present petn to the Board, the CO Mr para 4 p 14 CF
himself has inspected the land.
He considers that the encr is
unobjectionable. The land in
question is not part of the DT Board
road formation & is not required
for purposes of that road. It
forms part of cart track but is
not required even for purposes
of that cart track. He d° d°
recommends that eviction
order already passed may P 89 q (A)
be cancelled so that steps
may be taken to assign the
land to the encroacher.

5. The Board may
accept the CO's recommendation
~~It may cancel the order of~~
~~eviction so far as it relates to~~
~~the present encr.~~ not only re- d°
garding ~~for~~ ~~order~~ the pak
but also re developing Problems p/ 13-14 C1
cancel the orders of eviction. vide para 5 & 6
19/1/40
for orders.

SECY.
26 JAN 1940

25/1

p.2

Jo A S

Dr. Sch.

10 V

9 V

B.P. Ms. 430

Dated 12.2.40

Full Board Single Member

I.A.	A.D. and L.R	Assistant Secy. Land Rev.	Settle ment	Sep Rev.	Jt. Secy.	Secy.	M-4	M-3	M-2	M-1

1. Open file seen by ✓
2. Final draft seen by ✓
3. Now circulated to
4. Initials.

Passed for record.

~~Secretary~~
Joint Secretary

A.S. (C.W.).
~~A.S.~~ (L.R.). Gill
A.S. (Sett).
A.S. (Excise)
A.D.S. & L.R.
~~I.A.~~

Note:- Entries not required to be scored out